DECISION MEMO

FOR

MIDSTATE TELEPHONE COMPANY
TELEPHONE LINE REPLACEMENT TO EXISTING RESIDENTIAL AREA

SECTION 5, T137N, R102W
BILLINGS COUNTY, NORTH DAKOTA

USDA FOREST SERVICE
DAKOTA PRAIRIE GRASSLANDS
LITTLE MISSOURI NATIONAL GRASSLAND
MEDORA RANGER DISTRICT
BILLINGS COUNTY, NORTH DAKOTA

Responsible Official: Ronald W. Jablonski, Jr., District Ranger
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Overview

The Medora Ranger District, Dakota Prairie Grasslands (DPG) has received a Special Use Application from Midstate Telephone Company to replace 3800 feet of copper telephone cable with 5670.02 feet of fiber optic telephone cable located on National Forest System Land in Section 5, T137N, R102W, Billings County, North Dakota. The telephone cable provides telephone service to a private residence. (see Figure 1 Vicinity Map).

The existing line is buried and is also suspended over the Little Missouri River to connect to a residence. The existing line is an old copper telephone line and has deteriorated and not capable of providing service that has been requested by the private resident. The line will be replaced with a fiber optic line which will allow the private individual to have telephone service, provide internet capabilities and the new line will allow for additional residential services if necessary. The new line has been relocated next a two track road and will be plowed in and bored across the Little Missouri River. This is due to an existing archeological site found located where the existing telephone is buried. (See Figure 1, Vicinity Map).

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The telephone line starts on private land in Section 6, T137N, R102W and proceeds onto National Forest System land (NFSL) in the NW1/4SW1/4 of Section 5, T137N, R102W, Billings County, North Dakota. The line will follow an existing two track trail until it reaches the SW1/4SE1/4 of Section 5 where is turns to the east and is bored across the Little Missouri River to the private residence on private land in Section 4, T137N, R102W. The line will be plowed in at a minimum depth of 42 inches (See Figure 2, Project Map). Midstate Telephone Company took it upon themselves to bore across the river before the project was approved. This portion of the project therefore has already been completed.

This document tiers to the Dakota Prairie Grasslands Land and Resource Management Plan (DPG LRMP). The proposed project lies within Management Area 4.22 “River and travel Corridors”. The DPG LRMP and management area direction for special uses is to:

- Locate any new utility construction involving river crossings in existing corridors
- Permit utility companies to construct new utility corridors, unless prohibited by management direction.
- Consolidate utility lines within existing corridors or areas adjacent to roads wherever possible.
- Bury electrical utility lines of 33 KV or less and telephone lines.

The proposed project would be consistent with the Goals, Objectives, and Management Standards of the Dakota Prairie Grasslands Land and Resource Management Plan.

Decision

I, as the responsible official, have the authority to determine whether to approve, deny, or modify the request for replacement of the existing telephone line and approve the Special Use Application. I have decided to approve the request and issue an Amendment to Midstate Telephone Company’s existing Master Special Use Permit dated 06/22/09.

As a part of my decision to approve this proposal I am also including the following actions:

- Reseed disturbed areas with Forest Service approved native seed mixture as attached to Midstate Telephone Company’s existing Master Special Use Permit.
- Complete One Call before installation starts.
- If any sensitive plant population, archeological, or fossils are found during construction, the site(s) will be protected and the Forest Service notified.
• All construction equipment will be cleaned of soil and plant material before arriving on site and before leaving the site to reduce the spread of noxious weeds.

In the course of making my decision, I considered agency comments, the DPG LRMP and information provided by the Forest Service specialists. My decision was also based on the following points:

• The Forest Service Biologist and Botanist have both determined the proposal actions would have “No Impact” to any sensitive wildlife or plant species.  
• The Forest Service Archeologist has cleared the project to proceed since the line has been relocated to avoid the archeological site.  
• There are no paleontology concerns. The area is not within an inventoried paleontology site.  
• This project is consistent with the special uses direction in the DPG LRMP.

Categorical Exclusion

The Forest Service Environmental Policy and Procedures Handbook (1909.15, Chapter 30) provides that a proposed action may be categorically excluded from further analysis and documentation in an environmental impact statement (EIS) or environmental assessment (EA) only if there are no extraordinary circumstances related to the proposed action and if:

• The proposed action is within one of the categories in the Department of Agriculture (USDA) NEPA policies and procedures in Title 7 Code Of Federal Regulations Part 1b (7 CFR Part 1b), or  
• The proposed action is within a category listed in Section 31.12 or 31.2.

This project would fall under 36 CFR 220.6(e)(3): “Approval, modification, or continuation of minor special uses of National Forest System lands that require less than five contiguous acres of land. In review of this project, a “test for extraordinary circumstances” was conducted that included conclusions on the following resources:

Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species –

There are no federally listed Threatened or Endangered (T&E) plant species, nor are there any resident T&E wildlife species. There is no designated critical habitat for plant or wildlife species on the Little Missouri National Grassland. Therefore there will be no effects to any T&E species. There are no plant or wildlife species proposed for federal listing nor is there any proposed critical habitat associated with the proposed project.

The Forest Service Wildlife Biologist determined there would be “No Impact” to any other sensitive species. There are no expected significant cumulative effects from the implementation of this project.

The Forest Service Botanist determined would be “No Impact” to any other sensitive species from the proposed action. All equipment should be cleaned before leaving the project area to minimize spreading of invasive grass seed. The Biologist and Botanist have both determined the proposal actions would have “No Impact” to any sensitive wildlife or plant species.

Flood plains, wetlands, or municipal watershed – The telephone line is located in a flood plain, wetland, or municipal watershed on National Forest System lands. The telephone line crosses the Little Missouri River and the line will be bored and will have no impact to the wetland.
Congressionally designated areas, such as wilderness, wilderness study areas, or National Recreation Areas – This project area is not proposed for wilderness designation under the Dakota Prairie Grasslands Land and Resource Management Plan nor does it lie in Management Area (MA) 1.2A Suitable for Wilderness.

Inventoried Roadless Areas – This project is not within an inventoried roadless area.

Research Natural Areas – No research natural area, existing or nominated, lies in the vicinity of this proposal.

American Indians and Alaska Native religious or cultural sites – No American Indian religious or cultural sites have been identified. The Forest Service Archeologist has cleared the project to proceed.

Archaeological sites, or historic properties or areas – An archeological survey was completed and there were cultural resource concerns in the project area. The line has been relocated to avoid the cultural concerns. Midstate Telephone Company may proceed with this project provided the line follows the two track road southwest until the drainage then follows the drainage north northeast until bored across the river. The Forest Service Archeologist has cleared the project to proceed. If cultural resource sites are discovered during project implementation, construction will cease until the Forest Service Archeologist has cleared the sites.

Based on our analysis of the proposed action, I have determined that the proposed project fulfills the requirements for Category 31.2 (3): There are no conditions present that may have a potentially significant effect on extraordinary circumstances.

Scoping & Public Involvement

A scoping letter was sent to fifty-two individuals, groups, and agencies on July 30, 2014. The period for public comment was 30 days. There were two responses received. One from the North Dakota Department of Health, Environmental Health Division and the other from the US Army Corps of Engineers, North Dakota Regulatory Office.

The North Dakota Department of Health, Environmental Health Division provided information on steps to be taken to minimize degradation to waterways, and to use caution to prevent spills of oil and grease that may reach the receiving water from equipment maintenance and/or handling of fuels during the project implementation. Guidelines were also attached for minimizing degradation to waterways during construction. There were also concerns on noise from construction and to take all necessary measures to minimize dust emissions during construction. These concerns are dealt with in the permit stipulations and exhibits.

The US Army Corps of Engineers, North Dakota Regulatory Office stated if proposed would require a Section 10 and/or Section 404 permit, an application would need to be submitted to the US Army Corps of Engineers, North Dakota Regulatory Office. This information was sent to Midstate Telephone Company and they will need to coordinate with US Army Corps of Engineers to determine what will be necessary since Midstate has already bored the river without prior approval from the Forest Service.

Internal comments consisted of:

- Complete One Call before project begins.
- Midstate Telephone Company is responsible for any damage to existing utilities such as range fences and future erosion from the telephone line installation.
These internal concerns are addressed in the permit stipulations and the additional mitigation measures which require that all existing facilities be protected in place, prevention and control of noxious weeds, and fire prevention measures.

**Applicable Laws and Regulations**

The proposed project is consistent with the Goals, Objectives, and Management Standards of the Dakota Prairie Grasslands Land and Resource Management Plan.

The proposed project is consistent with the National Historic Preservation Act of 1966, as amended in 1999. A previous cultural resource survey was completed and reviewed by the Forest Service Archeologist. Results indicated there were no adverse effects to the historical cultural resources of the area.

The proposed actions are consistent with the Endangered Species Act of 1973. The Forest Service Botanist and Wildlife Biologist reviewed the proposed project area and considered potential impacts on Threatened and Endangered (T&E) plant and wildlife species and their habitats. Both of these specialists concur that there will be no impacts to T&E species.

Migratory Bird Treaty Act: On January 10, 2001, President Clinton signed an Executive Order outlining responsibilities of federal agencies to protect migratory birds. Upon review of the information regarding neotropical migratory birds and the scope of the project, the Forest Service Wildlife Biologist determined that no significant loss of migratory bird habitat is expected from implementation of this project.

The proposal is consistent with the Clean Water Act of 1972, as amended in 1977 and 1987. Direction provided in Forest Service Handbook 2509.22 will be used to implement applicable portions of the Clean Water Act for this proposal.

The project is consistent with Executive Order 12898: Environmental Justice. This decision has considered whether the project would disproportionately impact minority or low-income populations. Public involvement did not identify, nor is this decision expected to have, adverse impacts to minority or low-income populations.

**Implementation Date**

Since the two non-federal groups that commented did not want to exercise their appeal rights, this decision is not subject to appeal pursuant to 36 CFR 215.

Pursuant to 35 CFR 251 (Subpart C), this decision is subject to appeal by the applicant, Midstate Telephone Company.

**Implementation Date**

This project may be implemented immediately.

**Contact Person**

Any questions related to this project or Decision should be directed to Ronald W. Jablonski, Jr., District Ranger, 99 23rd Ave. West, Suite B, Dickinson, North Dakota 58601 or Tina Thornton, Realty Specialist at the Medora Ranger District, 99 23rd Ave. West, Dickinson, North Dakota 58601, or by telephone (701) 227-7809. The project record containing additional information supporting the environmental analysis
and findings in this Decision Memo has been prepared and is available for public review at the Medora Ranger District. Interested individuals may review the Project Record by scheduling a visit in advance.

RONALD W. JAB LONSKI, Jr., District Ranger
Medora Ranger District
Dakota Prairie Grasslands

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